The Planning Inspectorate

Appeal Decision

Site visit made on 12 January 2017

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 January 2017

Appeal Ref: APP/G2245/W/16/3159820
Woodside, Otford Lane, Halstead, Kent TN14 7QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Landford Rae against the decision of Sevenoaks District Council.
- The application Ref SE/16/00451/FUL, dated 17 February 2016, was refused by notice dated 27 June 2016.
- The development proposed is erection of detached bungalow in place of existing commercial development.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The post code on the application form contained a typographical error. I have altered it to that contained on the Council's decision notice and the appeal form as that relates to the correct address.

Main Issues

3. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- Whether the proposed dwelling would conserve the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty;
- Whether the proposed dwelling would affect ecology and biodiversity in the area;
- Whether there are other considerations weighing in favour of the proposal; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The proposal would replace the existing buildings at Woodside that are now vacant with a substantial bungalow. The National Planning Policy Framework (the Framework) confirms that new buildings should be considered inappropriate within the Green Belt with a number of exceptions, including the partial or complete redevelopment of previously developed sites whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. The Framework confirms that previously developed land includes land which is occupied by a permanent structure, including the curtilage of the developed land, but excludes land that is or has been occupied by agricultural or forestry buildings.

5. The previous use of the existing buildings is disputed as to whether it was industrial or agricultural, although one building has a Certificate of Lawfulness of Existing Use or Development (CLEUD) for storage of building materials.

6. The Council suggest that, other than the building subject of the CLEUD, the buildings were last in lawful use for agricultural purposes, specifically, with the exception of the glasshouses, as poultry houses. The appellants state that the appearance and layout of the buildings suggest that they are unsuitable as poultry houses, however, no alternative use has been put forward by the appellants and no evidence has been presented as to any alternative use. Consequently, there is no evidence to contradict the Council's assertion that the last lawful use of the buildings other than that subject of the CLEUD was agricultural. For these reasons, I conclude that these buildings appear not to fall within the definition of previously developed land as set out in the Framework and, consequently, would not fall within the exception to inappropriate development set out above.

7. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Indeed, openness is one of the essential characteristics of Green Belts. The proposed dwelling would be taller than the existing buildings on the site, although would be of a smaller footprint. However, according to the Council, that increase in height results in the volume of development increasing over that of the existing buildings and affecting the openness of the Green Belt.

8. The proposed development would consolidate built form to a smaller section of the site, with the remainder of the site either garden or pasture. The garden area is likely to attract domestic paraphernalia, such as washing lines, garden furniture and play equipment, that would have some effect on the openness of the Green Belt. Although the area to be used as pasture, including area occupied by one of the glasshouses, would result in an increase the openness of that part of the site, this would not overcome the adverse effect of the remainder of the development on the openness of the Green Belt.

9. For these reasons, the proposed dwelling, due to its height, volume and the domestic paraphernalia within the garden area, would reduce the openness of the Green Belt in this location. As such, even if I am wrong as to the lawful use of the site, it would constitute inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

Area of Outstanding Natural Beauty

10. The site is located within the Kent Downs Area of Outstanding Natural Beauty (AONB). The Framework confirms that great weight should be given to conserving landscape and scenic beauty in the AONB. Policy SP 1 of the Sevenoaks Core Strategy (CS) and Policies EN1 and LO8 of the Sevenoaks Allocations and Development Management Plan (ADMP) seek to ensure high quality design that respects the character of the site and conserves the distinctive character of the AONB.

11. The proposal would replace the existing buildings with a substantial residential dwelling that would be taller than the existing buildings and introduce additional domestic paraphernalia within the garden area around the dwelling. This would result in the proposed building being more prominent within the site than the buildings that it would replace. Whilst the existing buildings are unattractive, in poor condition and largely constructed in asbestos, they are modest buildings that reflect their rural location.

12. Adjacent to the site are other dwellings, one of which is a flat roofed timber clad building with permission to be replaced with a more substantial pitched roof building and the proposed dwelling would reflect the appearance of those dwellings and others in the surrounding area. Nevertheless, the proposed development would result in a suburban form of development encroaching into this attractive rural landscape.

13. For these reasons, the proposed development would not conserve the landscape and scenic beauty of the AONB, contrary to Policy SP 1 of the CS and Policies EN1 and LO8 of the ADMP.

Ecology

14. National Planning Practice Guidance and Circular 06/2005: Biodiversity and Geological Conservation confirm that surveys should be carried out prior to planning permission being granted where there is a reasonable likelihood of a protected species being present and affected.

15. Should protected species be found on or near the site, it is possible that the development could not go ahead in its proposed form. On that basis, this issue could not be appropriately dealt with by condition.

16. The site would be landscaped as part of the development, which may result in an ecological and biodiversity benefit from the development. However, it is not clear what effect any landscaping proposed would have on protected species that may already be present on the site.

17. For these reasons, without an appropriate ecological survey of the site, insufficient information has been provided to conclude whether the proposed development would comply with the Framework, Circular 06/2005 and Policy SP 11 of the CS that seek to conserve the biodiversity of the district. In the absence of that information, I have to conclude that the development would adversely affect ecology and biodiversity in the area.

Other considerations

18. I understand that redevelopment of the site would prevent the potential unauthorised use of the site and misuse of the existing buildings although no

evidence has been provided that this may have happened in the past or is likely to in the future.

19. My attention has been drawn to other cases allowed on appeal[1] relating to redevelopment of previously developed land within the Green Belt. However, there did not appear to be any dispute in those cases as to the previous use of those sites for commercial purposes and, in those cases, the Inspectors concluded that the resulting development would not have a greater impact on the openness of the Green Belt than the existing use of land and buildings. In any case, I need to consider the case in front of me on its individual merits.

Conclusion

20. In conclusion, I have found that the proposed demolition of the existing buildings and construction of a dwelling would be inappropriate development that harms the openness of the Green Belt, the landscape and scenic beauty of the AONB and ecology and biodiversity in the area. I note that additional landscaping may benefit ecology and biodiversity, the removal of the buildings that have potential for unauthorised use or misuse and my attention has been drawn to other cases, but I do not consider that these matters are sufficient to overcome the harm that I have found. For these reasons, the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. As such, the proposed development is contrary to Policy LO8 of the ADMP and the Framework that seek to protect the Green Belt from inappropriate development.

21. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR

[1] Appeal references APP/G2245/A/13/2200926 and APP/G5180/W/15/3136998